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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/705,248

11/12/2003

Jeffrey Alan Middlesworth

503 US

3193

53476

7590

04/06/2007

JOSEPH A TESSARI

TREDEGAR FILM PRODUCTS

1100 BOULDERS PARKWAY

RICHMOND, VA 23225

EXAMINER

RUDDOCK, ULA CORINNA

ART UNIT

PAPER NUMBER

1771

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

04/06/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/705,248

Applicant(s)

MIDDLESWORTH ET AL.

Examiner

Ula C. Ruddock

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20-22, 26-34, 37 and 39-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 20-22, 26-34, 37, 39-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The Examiner has carefully considered Applicant's amendment and accompanying remarks filed January 10, 2007.

Terminal Disclaimer

2. As previously noted in the rejection mailed March 23, 2006, the terminal disclaimer filed on December 28, 2005, disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of 10/807409 has been reviewed and is NOT accepted.

3. The terminal disclaimer does not comply with 37 CFR 1.321(b) and/or (c) because:

The application/patent being disclaimed has been improperly identified since the filing date of the Application being disclaimed is incorrect. The correct filing date is March 24, 2004.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 20-22, 26-34, 37, and 39-44 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Applicant has amended independent claim 20 to limit the bonding points to a "plurality of points on said first surface and a plurality of high points on the nonwoven layer." There

is no support for limiting the bonding points to the high points on the nonwoven layer. This limitation is considered new matter and amendments to the claims are required to delete the new matter limitations. The remaining dependent claims are rejected as being dependent upon a rejected independent claim.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 20-22, 26-28, 30-32, 34, 39, 40, 41, 43, and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nissing (US 6,270,875). Nissing discloses a wiping article having a first layer and a second plastic film layer. The first layer has an extensibility greater than the film layer. The first layer can be a dry creped web of cellulosic fibers and the second layer can be an apertured, three-dimensional plastic film (abstract). The first layer is joined to the second layer via an adhesive bond pattern (col 4, ln 10-57). The first layer is a nonwoven layer that has at least 25% extensibility and can be made of cellulosic fibers (i.e. wood pulp). The first layer is preferably creped (col 6, ln 21-43). The second layer is preferably apertured and can be formed from a polyethylene or polypropylene film material (col 7, ln 21-26). The wipe may comprise a third layer, which can also be a cellulosic nonwoven creped layer (col 8, ln 51-67 to col 9, ln 1-10). Nissing discloses the claimed invention except for the teaching that the bonding points occur between a

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plurality of points on the first surface of the elastic layer and a plurality of high points on the nonwoven layer.

It would have been obvious to one having ordinary skill in the art to have limited the bonding to a plurality of points on the first surface of the elastic layer and a plurality of high points on the nonwoven layer, motivated by the desire to create a composite that has increased dimensional stability and lamination strength.

Regarding claim 39, in the absence of unexpected results it would have been obvious to one having ordinary skill in the art to have made the perforated elastic layer have an elongation to break of at least 50%, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233. In the present invention, one would have optimized the elongation to break motivated by the desire to create a composite that has the desired pliability.

Response to Arguments

8. Applicant's arguments filed January 10, 2007, have been fully considered but they are not persuasive for the reasons set forth. Applicant argues that Nissing does not teach bonding a creped nonwoven to an elastic film. This argument is not persuasive because Nissing's film layer is made of polypropylene or polyethylene, which are also used to make up the film layer of the present invention. Therefore, Nissing's film would have a degree of elasticity. While Nissing specifically discloses that the nonwoven layer has "an extensibility greater" than the film layer, it does not teach that the film layer has no extensibility or elasticity. Therefore, the Nissing rejection is maintained.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ula C. Ruddock whose telephone number is 571-272-1481. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel H. Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

UCR

Wla Raddock
Wla C. Raddock
Primary Examiner
Tech Center 1700